

Senate Government Organization Committee

**Interim Report to the
80th Legislature**



December 2006

Acknowledgments

The Senate Government Organization Committee and the Committee Chairman would like to recognize all those who assisted with this report for their hard work and cooperation.

The Committee Chairman would also like to acknowledge the valuable assistance and expertise of the Texas Historical Commission, Texas Parks and Wildlife Department, Texas Building and Procurement Commission, Texas Department of Criminal Justice, Texas Council on Environmental Quality, the Comptroller of Public Accounts, the Texas Department of Transportation, staff for the Lt. Governor's Office, the State Auditor's Office and the Legislative Budget Board.

The Committee would also like to thank everyone who took the time to testify, submit written reports, or otherwise assist in the interim study.

Special thanks go to the Government Organization Committee staff for their dedication and hard work in developing this report.

Interim Charges

1. Study and make recommendations for the creation of a comprehensive catalogue of facilities of historical significance managed by the Texas Parks and Wildlife Department (TPWD) and the Texas Historical Commission (THC). Include recommendations for efficient management and promotion of such sites, including a review of the merits of consolidation of those sites under one of the existing agencies or a new agency, and identify potential funding mechanisms to ensure that facilities are adequately funded.
2. Review recent efforts to improve the use of resources by state agencies through conservation, energy audits, and energy efficiency.

Reports

The Committee shall submit copies of its final report no later than December 1, 2006. The printing of reports should be coordinated through the Secretary of the Senate. Copies of the final report should be sent to the Lieutenant Governor (5 copies), Secretary of the Senate, Senate Research, Legislative Budget Board, Legislative Council, and Legislative Reference Library.

The final report should include recommended statutory or agency rulemaking changes, if applicable. Such recommendations must be approved by a majority of the voting members of the Committee. Recommendations should also include state and local fiscal cost estimates, where feasible. The Legislative Budget Board is available to assist in this regard.

Budget and Staff

Travel costs shall be paid from the operating budgets of Senate members. All other costs shall be borne by the Senate Government Organization Committee's interim budget, as approved by the Senate Administration Committee.

The Committee should also seek the assistance of legislative and executive branch agencies where appropriate.

Interim Appointments

Pursuant to Section 301.041, Government Code, it may be necessary to change the membership of a committee if a member is not returning to the Legislature in 2007. This will ensure that the work of interim committees is carried forward into the 80th Legislative Session.

Senate Government Organization Committee interim hearings

April 27, 2006

Austin

Charges #1 and #2

Interim Charge #1

Study and make recommendations for the creation of a comprehensive catalogue of facilities of historical significance managed by the Texas Parks and Wildlife Department (TPWD) and the Texas Historical Commission (THC). Include recommendations for efficient management and promotion of such sites, including a review of the merits of consolidation of those sites under one of the existing agencies or a new agency, and identify potential funding mechanisms to ensure that facilities are adequately funded.

Recommendations

1. The Committee recommends that all staff associated with facilities of historical significance be properly trained in order to provide the optimal services for users of the historical sites. In particular, the Committee recommends that appropriate staff be required to take a course in "Managing Park Operations" which provides the necessary training in order to provide a superior park experience for patrons.
2. The Committee does not recommend the creation of new agency to manage state historical sites without a comprehensive study. In past reports, the Sunset Advisory Commission has recommended that that the Texas Historical Commission remain a distinct agency and that it not merge with other agencies with cultural resource responsibilities. Both the Texas Parks and Wildlife Department and the Texas Historical Commission have testified and submitted documents that do not warrant consolidation. The Committee recommends that the Texas Historical Commission and the Texas Parks

and Wildlife Department create a joint task force to study the issue of consolidation, transferring historic sites and to work together on funding issues for parks and historic sites.

3. The Committee recommends elimination of the cap on the dedicated Sporting Goods Tax as a mechanism to fully fund the state historic sites, parks and other unique attractions like the Texas State Railroad and the Battleship Texas. Texas Parks and Wildlife indicates that it needs over \$130 million for major site improvements and repairs to historic sites. Elimination of the cap on the Sporting Goods Tax will go a long way to making much needed repairs.

Background

The Senate Committee on Government Organization met on Thursday, April 27, 2006 to discuss Committee Interim Charge #1. Representatives from the Texas Historical Commission (THC) and Texas Parks and Wildlife Department (TPWD) were present to testify about the Charge and provide the Committee with background information. Committee Staff also met with representatives of these two agencies to discuss the interim charge and provide the Committee members with background information.

The Committee learned that the Texas Historical Commission and Texas Parks and Wildlife Department had studied the needs of the historical sites under the management of Texas Parks and Wildlife in the past. In 1999, THC and TPWD jointly published the

"Texas Cultural Plan". The report set forth 34 recommendations for changes to state parks and historical sites. The total cost of implementation of the recommendations was \$24.25 million. In addition to the funding recommendation the report also recommended: establishing a distinct management structure for historic sites; establishing distinct staff selection guidelines for historic sites; determining reasonable and consistent hours of operations for all historic sites; developing friendly groups as innovative partners and community links; renaming historic parks as historic sites for clarity and distinction; assigning entrance fees to appropriate sites at each site, thereby giving value to each visitor's experience; upgrading communication equipment to acceptable levels; providing appropriate training for all staff; working with the Historical Commission to enhance the historic sites program; and to recommending that the Parks and Wildlife Department (as noted in its Sunset Commission review), that Parks and Wildlife Commission appointees include historians. Many of the non-funding related recommendations were implemented. The funding recommendations were never funded. This study was updated in 2004 and 2005.

At the hearing, both the THC and TPWD testified that the historic sites, as well as all state parks, are important economic contributors across the whole state of Texas. Eleven percent of tourism in Texas is heritage tourism, of which the historic sites are the foundation. The Texas Historical Commission testified that for every dollar invested in historic sites, \$30 in economic activity was generated. The Committee further heard that our state parks have deferred much needed maintenance and cut hours of operation at many parks due to budget constraints. Additionally, the Committee heard that if many of

the facilities at Texas state parks were not maintained, then their role in the local economies would diminish over time. Parks and Wildlife testified that budget constraints have led to many sites only being open two or three days a week and that some sites have had to be transferred to other entities. Additionally, in the past year alone 73 jobs have been eliminated in TPWD. Both agencies testified that no agency could adequately run the state owned historical sites without significant funding above current levels.

The Historical Commission also testified to the need that all staff associated with facilities of historical significance be properly trained in order to provide the optimal services for users of the historical sites and that providing such staff would enhance the economic impact on local economies. The Committee asked about trying to make up some of the short fall in funding through user fees. Parks and Wildlife testified before the Committee that fees had been raised at many of the parks and historic sites but that there needed to be a balance between attempting to pay for needed maintenance and staffing and allowing reasonable access to these facilities for all Texans. The Committee and the agencies also discussed the problems associated with Parks and Wildlife's most popular historic attractions the Battleship Texas and the State Railroad. Parks and Wildlife testified that both projects require extensive and costly maintenance or they would be lost to future generations of Texans.

The Committee also learned that in the 2006 summer TPWD had tasked the Texas State Park Advisory Committee with studying and making recommendations about the Texas parks system in four main areas: funding options; possible transfer of parks to other

entities; public-private partnerships; and options to secure future needs. The Advisory Committee issued the "State Park Advisory Committee Report to the Texas Parks and Wildlife Commission August 2006." The primary recommendations in the report were that the Legislature appropriate all revenues generated by the sporting goods sales tax and park related fees and taxes be appropriated to Parks and Wildlife and that all bonds already approved by the voters for Parks and Wildlife be issued to provide for state park repairs and maintenance. The Advisory Committee further recommended: pursuing a major program of acquisition and development of new parks and enhancing existing parks; that Parks and Wildlife transfer existing parks to local entities where appropriate; and that Parks and Wildlife work with non-profit organizations to maximize and facilitate donations to the Commission. The Advisory Committee recommended a ten year goal of funding and enhancement to insure that Texas state parks are properly maintained, adequately staffed and accessible to Texans and tourists. The Commission's report stated that because our state parks attract ten million visitors and generate economic activity of over \$793 million in sales, \$456 million in personal income for Texans, and 11,928 jobs, that following their recommendations "were not only sound public policy, but they are also a sound economic investment." The Texas State Park Advisory Committee reported there was a current backlog on facility repair projects with a cost of \$431 million. The Advisory Commission report concluded that "with proper funding, the Department could address current problems and create a solid foundation for the conservation and recreation needs of future generations."

Prior to the passage of House Bill 706, 73rd Regular Session, park funding from the state was primarily derived from a portion of the cigarette tax. House Bill 706, 73rd Regular Session, changed the funding source to the sales tax collected on sporting goods and capped the amount dedicated to park funding at \$32 million. According to the House Research Organization analysis of HB 706, the reason for this change was that cigarette taxes were a declining revenue source that could not adequately fund existing parks and could not provide for new parks to accommodate Texas' growing population. The statutory cap on sales tax sporting goods dedicated to parks funding has remained \$32 million to this day. During the last two budget cycles less than \$32 million of these sales taxes have been appropriated to park funding.

In 2001 voters approved \$101 million in bonds to address maintenance needs at state parks, but only \$55 million of those funds have been made available to Parks and Wildlife.

Interim Charge #2

Review recent efforts to improve the use of resources by state agencies through conservation, energy audits and energy efficiency.

Recommendations

1. The Committee recommends that state agencies diligently pursue cheaper, more cost-effective energy contracts and negotiate lower utility rates. This can be done through the State Energy Conservation Office's (SECO) State Energy Manager contract. Due to numerous choices of retail electric providers in Texas, there is more room for savings on that side of the equation.
2. The Committee recommends more aggressive application of energy performance contractors. Specifically, all state agencies should take advantage of the State Energy Conservation Office's (SECO) guidelines or negotiate with an energy performance contracting company to apply the same energy conservation strategy to their agency.
3. The Committee has endorsed SECO's workshop conducted on August 9, 2006 which educated the Executive Directors and Chief Financial Officers of all state agencies on use of energy efficiency models, reduction of energy expenditures, energy conservation and the benefits of utilizing energy savings performance contracting (ESPC). A follow up workshop was held on October 19, 2006 to provide guidance on implementation of ESPC.
4. The Committee also recommends investment of capital improvement funds for those state agencies housed in antiquated buildings with outmoded equipment. Capital improvements and technological upgrades are necessary to reduce wasteful energy practices and increase energy savings. Capital improvement funds should be requested in accordance with Government Code 2113.301.

5. The Committee also recommends that state agencies re-dedicate priority on reducing consumption of non-renewable energy sources.
6. The Committee recommends that the Legislative Budget Board review the means and funding of capital improvement projects during the legislative appropriation request process. LBB should conduct a cost-benefit analysis to determine if capital improvement projects should be paid out of general revenue funds or energy performance contracts.
7. The Committee recommends that all state agencies report to the Legislative Budget Board a detailed analysis of the savings that can be achieved by using energy performance contracts.

Background

The Senate Government Organization Committee met on Thursday, April 27, 2006 to discuss Committee Interim Charge #2. Representatives from the State Energy Conservation Office, Texas Building and Procurement Commission, Texas Commission on Environmental Quality and the Texas Department of Criminal Justice were present to testify about the Charge and provide the Committee with background information.

The Committee also heard testimony from the private sector, namely Good Company Associates, Siemens Building Technologies, Johnson Controls and TAC - Tour Andover Controls. Committee staff has also met with representatives of state agencies to discuss the interim charge and provide the Committee members with background information.

The Committee has learned that the trend for use of energy performance contractors is the most effective measure being utilized by other states and the federal government. For example, the General Accounting Office has realized a 20 percent savings since implementing energy performance contractors, amounting to a \$2 billion savings on

electricity alone. Energy Savings Performance Contracting has been used by a few Texas agencies to identify areas where an agency can save energy, recommend improvements and if savings are not realized, the ESPC contractor will pay for the lack of projected savings. Texas has not been taking advantage of the ESPC model until recently, and only at a few state agencies.

The Texas State Energy Conservation Office (SECO) plays an advisory role to state agencies but does not have enforcement authority. SECO has taken the lead in contracting with the company LPB (Lower Power Bills) to provide energy procurement services and owner's advocacy services to state agencies. LPB looks at government offices' electrical usage. LPB's incentive is on cost savings and only gets paid out of any savings realized.

Conservation efforts by state agencies in the past have included a guideline manual for best practices for efficient use of non-renewable energy resources, but have not historically included the use of energy performance contractors.

Staff research reflects historically limited state agency efforts on alternative methods of energy conservation measures outside traditional efforts to reduce energy usage. However, two state agencies have successfully implemented ESPCs. The Health and Human Services Commission is utilizing an ESPC for the 23 state schools and state hospitals that were part of the Texas Department of Mental Health and Mental Retardation. The Texas Parks and Wildlife Department used an ESPC to implement major utility savings modifications to the headquarters facility in Austin.

Two other state agencies, the Texas Department of Criminal Justice (TDCJ) and the Texas Youth Commission (TYC), have recently completed the procurement process for ESPC and have selected contractors.

The Texas Building & Procurement Commission (TBPC) has begun using SECO guidelines following their recommendations and using SECO's LPB Electric Services

contract. The Texas Department of Criminal Justice (TDCJ) historically has not utilized energy performance contractors, but has recently initiated participation in SECO's energy conservation model. TDCJ makes no specific recommendations for energy improvement, but asks for more money for capital improvements and maintenance upgrades.

The Texas Commission on Environmental Quality (TCEQ) continues to conduct employee education and training for energy efficiency practices. TCEQ facilities are managed by TBPC. TCEQ focuses on fleet management as a measure for conserving fuel and is investigating the future use of hybrid cars. The Railroad Commission of Texas concentrates on fleet management conservation measures. TBPC also governs the Railroad Commission's facilities energy policies.